

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

First named Inventor: Mark Plaia, et al.

Serial No. 09/938,882

Filed: August 24, 2001

For: ANTI-STENOTIC METHOD AND
PRODUCT FOR OCCLUDED AND
PARTIALLY OCCLUDED
ARTERIES

Docket No. 5770.CD2C.2

Art Unit: 3738

Examiner: Hieu Phan

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SEP 26 2005

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
BASED ON U.S. PATENT NO. 6,090,135Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The owner, EndoVascular Instruments, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as presently shortened by any terminal disclaimer, of prior Patent No. 6,090,135. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

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statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

9-26-05
Date


Signature

Lynn G. Foster, Attorney of Record

Typed or printed name
Telephone: (801) 364-5633

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included in the attached deposit account payment authorization.

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Docket: 5770-CD2C.2STATEMENT UNDER 37 CFR 3.73(b)Applicant/~~Patent Owner~~ Mark Plaia, et al.

Application No./Patent No. 09/938,882

Filed/Issue Date: August 24, 2001

Entitled: Anti-Stenotic Method and Product for Occluded and Partially Occluded Arteries

Endovascular Instruments, Inc., a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by, percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 7391, Frame 226, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
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[] Additional documents in the chain of title are listed on a supplemental sheet.

- [] Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

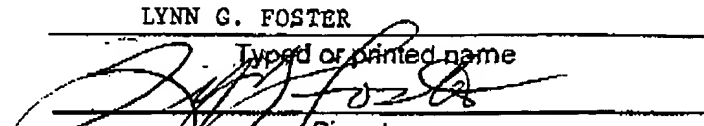
The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

September 26, 2005

Date

LYNN G. FOSTER

Typed or printed name



Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Mark Plaia, et al.

Serial No.: 09/938,882

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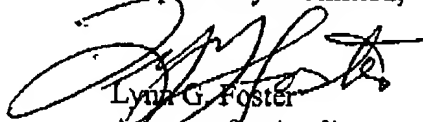
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Respectfully submitted,


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